

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA and the
STATES OF NEW JERSEY and NEW
YORK, *ex rel.* KENNETH W.
ARMSTRONG,

Plaintiff & Relator,

- vs -

ANDOVER SUBACUTE & REHAB
CENTER SERVICES ONE, INC., et al.,

Defendants.

Civil Action No. 12-3319 (SDW)

**DEFENDANTS ANDOVER SUBACUTE
& REHAB CENTER SERVICES ONE,
INC., ANDOVER SUBACUTE & REHAB
CENTER SERVICES TWO, INC., and
ESTATE OF DR. HOOSHANG
KIPIANI'S ANSWER TO
CROSSCLAIMS AND AFFIRMATIVE
DEFENSES**

Defendants Andover Subacute & Rehab Center Services One, Inc., Andover Subacute & Rehab Center Services Two, Inc. (the "Andover Defendants"), and the Estate of Dr. Hooshang Kipiani (the "Estate of Kipiani") (referred to collectively as "Defendants"), by and through their undersigned counsel, respond as follows to the Crossclaims of Defendant Sanjay K. Jain, M.D. ("Dr. Jain"), filed in this action:

CROSSCLAIMS

FIRST COUNT

1. Denied.

SECOND COUNT

1. Defendants incorporate by reference the preceding responses as though fully set forth at length herein.

2. Denied.

WHEREFORE, Defendants demand the entry of judgment in their favor and against Dr. Jain, dismissing with prejudice all claims for relief set forth in Dr. Jain's Crossclaims and awarding

Defendants their attorneys' fees, costs of suit and such further relief as the Court deems just and proper.

AFFIRMATIVE DEFENSES

1. Dr. Jain's Crossclaims fail, in whole or part, to state a claim upon which relief can be granted.

2. Dr. Jain's Crossclaims are barred by the applicable statute of limitations.

3. Any damages suffered by Dr. Jain were proximately caused by his own conduct or a third party's conduct, and not the conduct of Defendants.

4. Defendants have no obligation to indemnify Dr. Jain or to contribute to any judgment against him.

5. Defendants acted at all times reasonably, prudently, in good faith, and consistently with all duties and obligations imposed upon them by law or otherwise.

6. Dr. Jain's Crossclaims are barred, in whole or part, by the doctrines of waiver, estoppel, laches and unclean hands.

7. Dr. Jain's Crossclaims are barred, in whole or part, by his failure to mitigate any damages he may have suffered.

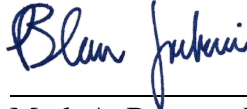
8. Defendants reserve the right to pursue any additional Affirmative Defenses that become apparent as a result of discovery or at trial in this case.

WHEREFORE, Defendants demand the entry of judgment in their favor and against Dr. Jain, dismissing with prejudice all claims for relief set forth in Dr. Jain's Crossclaims and awarding Defendants their attorneys' fees, costs of suit and such further relief as the Court deems just and proper.

CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2

To the best of Defendants' knowledge and belief, this matter is not the subject of any other action pending in any other court or of any pending arbitration or administrative proceeding.

Respectfully submitted,



Mark A. Berman, Esq.

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Attorneys for Defendants

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Dated: May 7, 2019